

1 **Senate Bill No. 596**

2 (By Senators Kessler (Mr. President) and M. Hall,

3 By Request of the Executive)

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5 [Introduced March 21, 2013; referred to the Committee on

6 Government Organization; and then to the Committee on Finance.]

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10 A BILL to amend and reenact §31-15A-17b of the Code of West

11 Virginia, 1931, as amended, relating to the determination of

12 the amount of grant awards for Chesapeake Bay watershed

13 compliance projects and the Greenbrier River watershed

14 compliance projects.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §31-15A-17b of the Code of West Virginia, 1931, as

17 amended, be amended and reenacted to read as follows:

18 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**

19 **COUNCIL.**

20 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**

21 **compliance projects.**

22 (a) (1) The Chesapeake Bay has been identified as an impaired

1 water body due to excessive nutrients entering the bay from various
2 sources in six states, including wastewater facilities in West
3 Virginia. To restore the Chesapeake Bay, the states have agreed to
4 reduce their respective nutrient contributions to the Chesapeake
5 Bay.

6 (2) The Greenbrier River Watershed in southeastern West
7 Virginia which encompasses approximately 1,646 square miles, the
8 majority of which lies within Pocahontas, Greenbrier, Monroe and
9 Summers counties, has been identified as an impaired water body due
10 to excessive levels of fecal coliform and phosphorus entering the
11 watershed from various sources, including wastewater facilities in
12 West Virginia. To restore the Greenbrier River Watershed, the
13 state agrees to reduce the fecal coliform and phosphorus
14 contributions to the Greenbrier River Watershed.

15 (b) Notwithstanding any other provision of this code to the
16 contrary, the Water Development Authority may issue, in accordance
17 with the provisions of section seventeen of this article,
18 infrastructure lottery revenue bonds payable from the West Virginia
19 Infrastructure Lottery Revenue Debt Service Fund created by section
20 nine of this article and such other sources as may be legally
21 pledged for such purposes other than the West Virginia
22 Infrastructure Revenue Debt Service Fund created by section

1 seventeen of this article.

2 (c) The council shall direct the Water Development Authority
3 to issue bonds in one or more series when it has approved
4 Chesapeake Bay watershed compliance projects and Greenbrier River
5 watershed compliance projects with an authorized permitted flow of
6 four hundred thousand gallons per day or more. The proceeds of the
7 bonds shall be used solely to pay costs of issuance, fund a debt
8 service reserve account, capitalize interest, pay for security
9 instruments necessary to market the bonds and to make grants to
10 governmental instrumentalities of the state for the construction of
11 approved Chesapeake Bay watershed compliance projects and
12 Greenbrier River watershed compliance projects. To the extent
13 funds are available in the West Virginia Infrastructure Lottery
14 Revenue Debt Service Fund that are not needed for debt service, the
15 council may direct the Water Development Authority to make grants
16 to project sponsors for the design or construction of approved
17 Chesapeake Bay watershed compliance projects and Greenbrier River
18 watershed compliance projects: *Provided*, That the council shall
19 direct the Water Development Authority to provide from moneys in
20 the Lottery Revenue Debt Service Fund not needed to pay debt
21 service in fiscal year 2013 a grant of \$6 million to a Chesapeake
22 Bay watershed compliance project which opened bids on December 28,

1 2011, and further provided that such Chesapeake Bay watershed
2 compliance project shall receive no further grant funding under
3 this section after receipt of the \$6 million grant.

4 (d) No later than June 30, 2012, each publicly owned facility
5 with an authorized permitted flow of four hundred thousand gallons
6 per day or more that is subject to meeting Chesapeake Bay
7 compliance standards or Greenbrier River watershed compliance
8 standards shall submit to the council a ten-year projected capital
9 funding plan for Chesapeake Bay watershed compliance projects or
10 Greenbrier River watershed compliance projects, as the case may be,
11 including a general project description, cost estimate and
12 estimated or actual project start date and project completion date,
13 if any. The council shall timely review the submitted capital
14 funding plans and forward approved plans to the Water Development
15 Authority for further processing and implementation pursuant to
16 this article. If the council finds a plan to be incomplete,
17 inadequate or otherwise problematic, it shall return the plan to
18 the applicant with comment on the plan shortcomings. The applicant
19 may then resubmit to council an amended capital funding plan for
20 further consideration pursuant to the terms of this subsection.

21 (e) Upon approval, each proposed Chesapeake Bay watershed
22 compliance project or Greenbrier River watershed compliance

1 project, or portion of a larger project, which portion is dedicated
2 to compliance with nutrient standards, or fecal coliform and
3 phosphorus standards, established for the protection and
4 restoration of the Chesapeake Bay or the Greenbrier River
5 watershed, as the case may be, shall be eligible for grant funding
6 by funds generated by the infrastructure lottery revenue bonds
7 described in section (b) of this section. At the request of the
8 applicant, the remaining percentage of project funding not
9 otherwise funded by grant under the provisions of this article may
10 be reviewed as a standard project funding application.

11 (f) No later than December 1, 2012, the Water Development
12 Authority shall report to the Joint Committee on Government and
13 Finance the total cost of Chesapeake Bay watershed compliance
14 projects and the Greenbrier River watershed compliance projects and
15 the proposed grant awards for each eligible project. From the
16 proceeds of bonds issued under subsection (b) of this section, the
17 council shall direct the Water Development Authority to make grants
18 to eligible projects ready to proceed to construction and those
19 grant awards shall be ~~of equal ratio~~ pro rated to an equal
20 percentage of total eligible costs among all applicants ~~of the~~
21 ~~total cost of~~ for each eligible project as certified by the Water
22 Development Authority in its report to the Joint Committee on

1 Government and Finance dated November 28, 2012: *Provided*, That the
2 final project, and its financing, is consistent with the scope of
3 the eligible project included in the council's approval on December
4 5, 2012.

5 (g) Eligible projects that have obtained project financing
6 prior to December 31, 2012, may apply to the council for funding
7 under the provisions of this section. These applications shall be
8 processed and considered as all other eligible projects, and a
9 grant funding awarded shall, to the extent allowed by law, be
10 dedicated to prepay all or a portion of debt previously incurred by
11 governmental instrumentalities of the state for required Chesapeake
12 Bay nutrient removal projects or Greenbrier River watershed fecal
13 coliform and phosphorus removal projects, subject to the bond
14 covenants and contractual obligations of the borrowing governmental
15 entity. However, any private portion of funding provided by
16 agreement between a political subdivision and one or more private
17 entities, either by direct capital investment or debt service
18 obligation, shall not be eligible for grant funding under the
19 provisions of this article.

(NOTE: The purpose of this bill is to make provision for
determination of the amount of grant awards for Chesapeake Bay

watershed compliance projects and the Greenbrier River watershed compliance projects.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)